IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

THURSDAY, THE TENTH DAY OF FEBRUARY
TWO THOUSAND AND FIVE

PRESENT

THE HON'BLE MR JUSTICE B.PRAKASH RAO

WRIT PETITION NO : 22534 of 1994

Between:

Battapuram Muthenna S/o. Linganna
R/o. Thimmapur (V) of Morthad Mandal, Nizamabad District.

..... PETITIONER

AND

1 The Joint Collector Nizamabad.
2 The M.R.O., Morthad, Nizamabad Dist.,
3 Battapuram Gangu W/o. Malkanna
R/o. Thimmapur Vg. of Morthad Mandal Nizamabad District.

.....RESPONDENTS.

Petition under Article 226 of the Constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court may be pleased to issue a writ, order or direction more particularly one in the nature of writ of Mandamus directing the respondents to pass orders afresh after hearing the petitioner in Case No. A7/28/91, dt.9-7-1994 by duly declaring the order passed by the first respondent vide Case No.A7/28/91, dt.9-7-1994 for mutation of the records basing on the representation of the third respondent in her favour without any notice to the petitioner and without hearing the petitioner as illegal, arbitrary and violative of Art. 14 of the Constitution of India and also against the principles of natural justice.

Counsel for the Petitioner:MR.V.RAVI KIRAN RAO

For the Respondent No.1 & 2: G.P. FOR REVENUE.

Counsel for the Respondent No.3: None appeared.

The Court made the following :

ORDER:

Heard Sri V.Ravi Kiran Rao, the learned counsel appearing for the petitioner and the learned Government PIeader for Revenue.

The petitioner herein, claiming to be the owner and possessor of the lands in question, seeks to assail the impugned order dated 09.07.1994, passed by the first respondent herein at the instance of the third respondent, *inter alia,* mainly on the ground that she had absolutely no notice or opportunity before any such orders were passed. However, it is her case that no enquiry was conducted nor any opportunity was given to her before passing the impugned orders.

Having heard the counsel on both the sides and on perusal of the material, apparently it is seen that the impugned orders came to be passed on the application filed by the third respondent. At the instance of the third respondent herein and after hearing the counsel, the concerned records were called for and on verification it was found that absolutely there was no notice nor any opportunity was given to the petitioner before passing the impugned orders. It is too late in the day to accept any such orders at the instance of one party without there being the other. *Ex facie* the impugned order is totally opposed to the basic principles of natural justice.

The writ petition is accordingly allowed. The impugned order dated 09.07.1994 is set aside. The matter is remitted to the first respondent for fresh disposal on merits in accordance with Law after giving notice and opportunity to both the sides.

B. PRAKASH RAO, J

10th February 2005.

Chvn.

That Rule Nisi has been made absolute as above.

Witness the Hon'ble Sri Devinder Gupta, the Chief Justice on this the Thursday, the Tenth day of February Two thousand and five.

ASSISTANT REGISTRAR.

// TRUE COPY//

SECTION OFFICER.

To

1 The Joint Collector Nizamabad.
2 The M.R.O., Morthad, Nizamabad Dist.,
3 Two C.Cs. to the G.P. for Revenue, High Court Buildings, Hyderabad (OUT).

4 Two C.D. copies.